

3002.1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOHN CACOULIDIS and PHYLLIS CACOULIDIS ,
as Trustees of GRAND METRO BUILDERS OF NY
CORP. DEFINED BENEFIT PLAN, on behalf of
themselves and all Others Similarly Situated, and
Derivatively on behalf of BEACON ASSOCIATES
LLC I,

Plaintiffs,

v.

BEACON ASSOCIATES MANAGEMENT CORP.;
JOEL DANZIGER, ESQ.; HARRIS MARKHOFF,
ESQ.; IVY ASSET MANAGEMENT CORP.; THE
BANK OF NEW YORK MELLON
CORPORATION; FRIEDBERG SMITH & CO. P.C.;
and JOHN DOES 1-100,

Defendants,

and BEACON ASSOCIATES LLC I,

Nominal Defendant.

JAY RAUBVOGEL, individually and as a trustee for
M. RAUBVOGEL CO. TRUST, on behalf of
themselves and all others similarly situated,

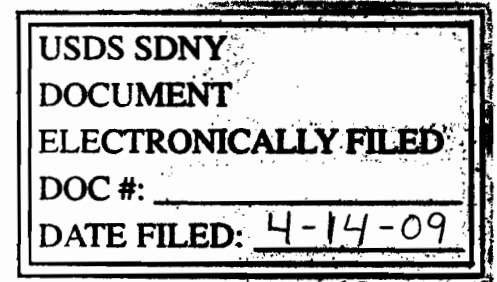
Plaintiffs,

v.

BEACON ASSOCIATES LLC I, BEACON
ASSOCIATES MANAGEMENT CORPORATION,
IVY ASSET MANAGEMENT, JOEL DANZIGER,
HARRIS MARKHOFF, THE BANK OF NEW
YORK MELLON CORPORATION, and
FRIEDBERG SMITH & CO. P.C.,

Defendants.

No. 09 Civ. 0777 (LBS)



No. 09 Civ. 2401 (LBS)

PLUMBERS LOCAL 112 HEALTH FUND, on
behalf of themselves and all others similarly situated,

Plaintiffs,

v.

BEACON ASSOCIATES MANAGEMENT CORP.,
JOEL DANZIGER, ESQ., HARRIS MARKHOFF,
ESQ., and IVY ASSET MANAGEMENT
CORPORATION,

Defendants.

No. 09 Civ. 3202 ()

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STIPULATION & [PROPOSED] ORDER
SCHEDULING BRIEFING FOR CONSOLIDATION OF ACTIONS,
APPOINTMENT OF LEAD PLAINTIFFS & APPOINTMENT OF LEAD COUNSEL

This Stipulation is entered into by plaintiffs in the following actions, (1) *Cacoulidis v. Beacon Associates Management Corp., et al.*, No. 09 Civ. 0777 (LBS); John and Phyllis Cacoulidis as Trustees of the Grand Metro Builders of NY Corp. Defined Benefit Plan, (2) *Raubvogel v. Beacon Associates LLC I, et al.*, No. 09 Civ. 2401 (LBS); Jay Raubvogel for himself and as trustee of the M. Raubvogel Co. Trust, (3) *Plumbers Local 112 Health Fund v. Beacon Associates Management Corp., et al.*, No. 09 Civ. 3202; Plumbers Local 112 Health Fund, (4) Movants, Plumbers & Steamfitters Local 267 Benefit Funds, Plumbers Local 112 Health Fund, Local 73 Retirement Fund, and U.A. of Journeymen & Apprentices Local 73 Fund's, The Bricklayers and Allied Craftworkers Local 3 New York, (collectively, "Plaintiffs"), and (5) Beacon Associates Management Corp., Beacon Associates LLC I, Joel Danziger, Esq., Harris Markhoff, Esq., Ivy Asset Management Corp., Friedberg Smith & Co. P.C., and The Bank of New York Mellon Corp. (collectively, "Defendants"), through their undersigned counsel.

WHEREAS, the actions captioned *Cacoulidis v. Beacon Associates Management Corp., et al.*, No. 09 Civ. 0777 (LBS), and *Plumbers Local 112 Health Fund v. Beacon Associates Management Corp., et al.*, No. 09 Civ. 3202, were filed alleging violations of the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act of 1995, Section 21D, 15 U.S.C. §78u, and violations of New York common law;

WHEREAS, the action captioned *Raubvogel v. Beacon Associates LLC I, et al.*, No. 09 Civ. 2401 (LBS), was filed alleging only violations of state and common law;

WHEREAS, on April 3, 2009, certain parties in 09 Civ. 0777 (LBS) and 09 Civ. 3202 filed motions seeking consolidation, appointment as lead plaintiff, and/or appointment of lead counsel (collectively, "Motions");

WHEREAS, Plaintiffs and Defendants have agreed to the briefing schedule set forth below on the Motions, to the extent any party wishes to take a position on any issues addressed in the Motions; and

WHEREAS, Plaintiffs and Defendants acknowledge that, by signing this stipulation, all rights are reserved and not waived and that no party is obliged to take a position on, and provide briefing for, every issue addressed in the Motions,

IT IS HEREBY STIPULATED AND AGREED by and among Plaintiffs and Defendants that:

1. Plaintiffs and Defendants shall file and serve their oppositions to the Motions, if any, no later than Thursday, April 23, 2009.
2. Plaintiffs and Defendants shall file and serve replies, if any, no later than Thursday, April 30, 2009.

Monday May 11, 2009 at 4:30 PM

MS

3. The Court will hear the parties on ~~Thursday, May 7, 2009 at 10:00 a.m. [or as soon thereafter as counsel may be heard]~~, in the Courthouse located at 500 Pearl Street, New York, NY 10007.

4. This Stipulation and Order is without prejudice to, or waiver of, any rights, arguments or defenses otherwise available to the parties to these captioned actions.

Dated: April 9, 2009

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Fund, Local 73 Retirement Fund and U.A. of
Journeymen & Apprentices Local 73 Fund*

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ROSENFELD & KAPLAN, LLP

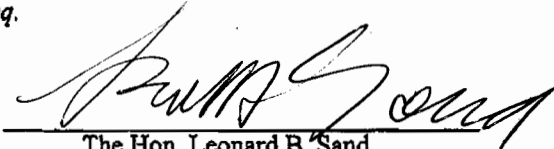
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*Attorney for Beacon Associates Management
Corp., Joel Danziger, Esq., and Harris Markhoff,
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Pursuant to Stipulation, IT IS SO ORDERED.

DATED: 4/17/09


The Hon. Leonard B. Sand
United States District Judge

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